IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

COMPANY APPLICATION No. 83 of 2007
In
OFFICIAL LIQUDATOR REPORT No. 48 of 2005
In
COMPANY PETITION No. 2 of 2004

For Approval and Signature:
HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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MANAGER, CO-OPERATIVE BANK OF AHMEDABAD - Applicant(s)
Versus
O.L. OF ALANG INDUSTRIAL GASES LIMITED & 4 - Respondent(s)

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Appearance :

MR SAURABH G AMIN for Applicant(s) : 1,
MR.HIREN M MODI for Respondent(s) : 1,
NOTICE SERVED for Respondent(s) : 2 - 3, 5,
MR DAKSHESH MEHTA for Respondent(s) : 2,
MR FB BRAHMBHATT for Respondent(s) : 3,
SERVED BY AFFIX.(N) for Respondent(s) : 4,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 07/05/2007

ORAL JUDGMENT

1. Present Judge's Summons has been taken out by the applicant – Cooperative Bank of Ahmedabad for an appropriate order permitting the applicant to sell – (i) Plot No.8 admeasuring 1747.50 sq mtr and proportionate land of common passage admeasuring 213.78 sq mtr and (ii) Plot No.9 admeasuring 1806.00 sq mtr and proportionate land of common passage admeasuring 213.78 sq mtr – both forming part of non-agricultural land bearing Plot No. 173 situated at village : Ukharla, Sub District: Ghogha, District Bhavnagar and better known as Plot Nos.8 and 9 of M/s. Sadguru Insutrial Estate, Bhavnagar.

2. It is the contention on behalf of the applicant that the aforesaid properties were mortgaged with the applicant bank by M/s. Ambitious Plastomac Company Limited in the year 1999 and that the aforesaid properties never belong to the company in liquidation. Shri Amin, learned advocate appearing for the applicant has further submitted that in fact, the applicant bank has already taken over the possession by exercising

the powers under the Securitization Act and the same is in their possession. It is submitted that as the applicant bank has already exercised the powers under the Securitization Act and the aforesaid properties were mortgaged with the applicant bank by M/s. Ambitious Plastomac Company Limited and that the aforesaid properties in question were never of the ownership of the company in liquidation, they may be granted permission to sell the aforesaid properties. There is a dispute as to whether the aforesaid properties belong to the company or not, however, in the meantime, if the properties are not sold and the amount is not realized in that case, nobody would get the maximum better price. Under the circumstances, without prejudice to the rights and contentions of the respective parties, the applicant bank can be permitted to sell the aforesaid properties under the over all supervision of the Official Liquidator and realize the amount and deposit the same with this Court so that whosoever succeeds, the amount can be paid to them. Under

the circumstances, the applicant bank to get the valuation of the aforesaid properties done by the Government Approved Valuer, more particularly, GITCO within a period of six weeks from today and submit the application before this Court for the purpose of fixing the amount of EMD as well as up set price and thereafter subject to the order passed by this Court, the applicant can be permitted to sell the aforesaid properties on over all supervision of the Official Liquidator and with further condition that the sale shall not be confirmed by the applicant without the prior permission of this Court. The Valuation Report to be placed by way of separate application within a period of six weeks from today and thereafter the applicant to invite the offers by publishing the advertisement in the local news papers.

3. With these, present application is disposed of. Applicant to file fresh application as stated above immediately on receipt of the Valuation Report.

[M.R.Shah, J.]

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